

Honorable John H. Chun

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KURT BENSHOOF, ARW. By and Through
His Father, KURT A. BENSHOOF,

Plaintiffs,

v.

MARSHALL FERGUSON, *et al.*,

Defendants.

No. 2:24-cv-00808-JHC

DEFENDANT JESSICA A.
SKELTON'S RESPONSE TO
PLAINTIFFS' MOTION TO STAY
PROCEEDINGS

NOTED ON MOTION CALENDAR:
September 30, 2024

I. INTRODUCTION

This matter has come before the Court on Plaintiff's Motion to Stay these proceedings indefinitely due to his lack of resources during his current incarceration in the Maleng Regional Justice Center in Kent, WA. For the reasons discussed herein, Ms. Skelton asks the Court to deny the request for an indefinite stay, but does not oppose and defers to the Court as to whether a short stay should be granted.

II. FACTUAL BACKGROUND

This Court is familiar with the history of these proceedings, and therefore Ms. Skelton does not repeat it here. For purposes of this motion, the following facts are relevant.

DEFENDANT JESSICA A. SKELTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR
STAY - 1
Cause No. 2:24-cv-00808-JHC

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On August 9, 2024, this Court issued an Order granting, *inter alia*, Ms. Skelton's motion to dismiss the claims against her, but informing Plaintiff that he may seek leave to amend the complaint with respect to those claims. Dkt. #40. Plaintiff was incarcerated at that time and Ms. Skelton is unaware of whether he has received and reviewed a copy of that Order. However, instead of seeking leave to amend, Plaintiff has filed a Motion to Stay these proceedings "indefinitely," on the basis that he is currently "unable to write and file documents in this case." Dkt. #41 at 1-2. Plaintiff alleges that he suffers from bi-lateral carpal tunnel syndrome and received court-ordered accommodations as a result, in the form of either a typewriter or a computerized word processor and printer. Dkt. #41 at 5. He alleges that the Maleng Regional Justice Center, where he remains incarcerated, has failed to comply with these accommodations, providing him with only "three inch golf pencils" and "five (5) 10x13 manilla envelopes per week," and are prohibiting him from enclosing "more than twelve (12) pages per envelope," and that he has not been provided with internet access since July 3, 2024, all of which have resulted in his inability to litigate this matter. *See id.* at 5-6. For these reasons, he seeks an indefinite stay of these proceedings, which Ms. Skelton has also interpreted as a request for additional time to amend his claims against her.

III. LEGAL STANDARD

A district court has discretion to stay its own proceedings. *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). In evaluating a request for a stay, the Court considers the competing interests at stake, including the possible damage which may result from a stay, the hardship or inequity a party may suffer in being required to go forward, and "the orderly course of justice measured in terms of simplifying or complicating the issues, proof, and questions of law which could be expected to result from a stay." *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir.

2005). “The proponent of a stay bears the burden of establishing its need.” *Clinton v. Jones*, 520 U.S. 681, 708 (1997). *See also Landis*, 299 U.S. at 255 (providing that the party seeking “a stay must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to [someone] else.”). *See also Sullivan v. Aurich*, 2022 WL 2111113, at *1 (W.D. Wash. May 9, 2022).

IV. ARGUMENT

It is Ms. Skelton’s position that the Court appropriately dismissed Plaintiff’s claims against her, and that Plaintiff is unable to properly amend his Complaint to remedy the deficiencies which formed the basis of her motion to dismiss. *See* Dkt. #27. Further, allowing an indefinite stay in these proceedings would create uncertainty for Ms. Skelton as to the potential of new or amended claims against her, requiring her to continue to retain legal counsel and incur legal costs by actively participating in a matter in which the claims against her have been dismissed.

Moreover, as demonstrated by the instant motion, while Plaintiff may not have electronic access to this Court’s filing system, Plaintiff has been able to file documents with this Court and participate in his case. In addition, it appears he has been able to conduct legal research while incarcerated as evidenced by the numerous legal citations in his motion. *See* Dkt. #41.

Under these circumstances, Plaintiff has failed to demonstrate that an indefinite stay is warranted. However, Ms. Skelton does not oppose a stay of the proceedings definite in nature, and defers to the Court as to whether such a stay is necessary and for what length.

V. CONCLUSION

For the reasons discussed above, Ms. Skelton respectfully requests that Plaintiff’s motion for an indefinite stay be denied and defers to the Court as to such other relief as is just.

1 I certify that this memorandum contains 765 words, in compliance with the Local Civil
2 Rules.

3 DATED this 17th day of September, 2024.

4 PACIFICA LAW GROUP LLP

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6 By: /s/ Sarah S. Mack

7 Sarah S. Mack, WSBA #32853

8 *Attorneys for Defendant Jessica A. Skelton*
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DEFENDANT JESSICA A. SKELTON'S
RESPONSE TO PLAINTIFFS' MOTION FOR
STAY - 4

Cause No. 2:24-cv-00808-JHC

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CERTIFICATE OF SERVICE

I am and at all times hereinafter mentioned was a citizen of the United States, a resident of the State of Washington, over the age of 21 years and not a party to this action. On the 17th day of September, 2024, I caused to be served a true copy of the foregoing document upon:

Mr. Kurt Benshoof
BKG. #2024-008067
King County Correctional Facility
Maleng Regional Justice Center
620 West James Street
Kent, WA 98032

- ☐ via facsimile
- ☐ via overnight courier
- ☒ via first-class U.S. mail
- ☐ via email
- ☐ via electronic court filing
- ☐ via hand delivery

Mr. Howard Brown
1003 W. Michigan St.
Hammond, LA 70401

- ☐ via facsimile
- ☐ via overnight courier
- ☒ via first-class U.S. mail
- ☐ via email
- ☐ via electronic court filing
- ☐ via hand delivery

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 17th day of September, 2024.



Dawn M. Taylor